



ON - THE - JOB

Sherrie M. Hayashi, Editor-in-Chief

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Commission Puts Focus on Providing First Rate Customer Service

By Elena Bensor

Community Relations & Workplace Safety Program Manager

Jack Welch, former CEO of General Electric and one of the most emulated managers in recent history, once said: **"I wanted to change the rules of engagement, asking for more - from fewer. I was insisting that we had to have only the best people...If you wanted excellence, at a minimum; the ambience had to reflect excellence."**

And so, as all things must evolve, the employees of the Utah Labor Commission began re-evaluating their approach to day-to-day practices, and the way we conduct business. Thus, the birth of the Customer Relations desk.

The purpose of the Customer Relations Desk is two-fold:

- 1) Increasing prompt response and equal access for all of our customers and addressing the challenges preventing them from accessing Labor Commission services, including barriers related to a disability or limited language skills and;
- 2) Ensuring through development of dependable and efficient business practices, we consistently identify processes for self-evaluation and the adoption and practice of exceptional business values to benefit our customer base.

The Customer Relations desk became operational in May 2007, and is just one of many changes the Labor Commission has undertaken in the pursuit of: "asking for more - from fewer" and part of the progression of changing our surroundings to "reflect excellence".

Previously, when guests stepped off the elevator on the 3rd floor, customers were immediately faced with making a decision as to which way to go to accomplish their task at the Commission, which was logistically divided into three separate areas, each staffed with its own receptionist. In an effort to simplify the process and make things more secure as

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Customer Relations... continued from page 1

well, the three areas were consolidated into the Customer Relations desk, and now all guests have the convenience of one central location to offer



Jose Blanco, Customer Service Specialist and Elena Bensor, Community Relations Manager, showcase the new centralized Customer Relations Desk available to guests visiting the Commission.

assistance upon their arrival.

In an effort to provide employees and guests alike more security, the new reception desk has been installed with an access code security system. Employees have badges which will trigger the button to open the door. All guests must sign before allowing them to gain access to the secured areas. This not only enables more security for employees, but assures visitors safety in the event of an emergency where it may become necessary to evacuate the floor.

An additional asset, one of our customer specialists, Jose Blanco, is fluent in Spanish and is able to assist limited and non-English speaking guests in an efficient and professional manner. Thuy Nguyen, also a customer relations staff member, has worked at the Commission for many years and is well educated as to the myriad of services the Labor Commission has to offer, enabling her to make appropriate staff referrals and accommodate our customers' needs with accuracy and efficiency.

In our first month, the customer relations team, consisting of the two staff members and myself as supervisor, responded to a total of 11,006 phone calls, (1,192 of which were made by Spanish speaking customers). Add to that our 4,050 walk-in customers in the same month, and you have an educated guess of the specific challenges our future holds; and how, with limited staff, we are rising to the challenge of "asking for more - from fewer."

So next time you visit the Labor Commission's Customer Relations desk, please be patient with our many policy changes and lobby renovations. Be reassured our employees are enthusiastically rising to the challenge, and that all of these changes are aimed to providing the best Customer Service ever!

We'd like to know if you have questions or concerns about your experience with the Labor Commission.

Please contact:
ebensor@utah.gov



Industrial Accidents Director wins Distinguished Service Award

The American Society for Public Administration (ASPA) - Utah Chapter, held its annual Awards Luncheon in June. Joyce Sewell, Industrial Accidents Division Director for the Utah Labor Commission was among this year's winners and was awarded the Dr. G. Homer Durham Distinguished Service Award for an Appointed Official.



See Joyce Sewell on pg. 8...

Safety Pays....In Many Languages 2007 Workplace Safety Poster Contest

Hillside Intermediate School knows that safety is important in any language, and eighth grader, Young Ji Kim, knows that



Young Ji Kim of Hillside Intermediate School holds this year's Grand Prize winning poster with Commissioner Sherrie Hayashi.

saying it creatively and artistically five different ways pays well! Ms. Kim was awarded \$500 and the top honor as this year's Grand Prize Winner in the Workplace Safety Poster Contest. Her art teacher, Eileen Brown, was also excited about Young Ji's creativity as it brought Hillside Intermediate matching winnings of \$500 to be used in the classroom for supplies or other items. The Labor Commission matches any money won by the top 12 students with an equal award to the school. Additionally, a \$300 participation award is given to every school that enters, regardless of whether or not they have any winning entries.

Stephanie Smith of Timberline Middle School claimed the 1st

Runner-up award and received a check for \$300. The 2nd Runner-up honors went to James Storey of



Young Ji's poster featured "Safety first" in five different languages and was bordered with safety icons.

North Ogden Jr. High School who pocketed \$300 for his efforts, and Brock Madsen from Kaysville Jr. High and Meagan Wangsgard from Central Davis Jr. High tied for 3rd Runner-up, each collecting prize money of \$300.

This year's winning entries were chosen from over 1,000 entries submitted by 26 different middle and junior high schools throughout Utah.



Stephanie Smith - Timberline Middle School
1st Runner-up

The poster contest, in its tenth year, is part of the Labor Commission's ongoing outreach campaign to "Take Safety Seriously". It is open to all middle and junior high schools across Utah, both private and public.

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Safety Pays....

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Because the workplace impacts all people and families in Utah, funds for a workplace safety account are generated from a percentage of the workers' compensation premium and are managed by the Workers' Compensation Advisory Council and the Labor Commission. One purpose of the fund is to provide education and opportunities to teach Utahns the importance of workplace safety. As students in the junior high and middle schools participate in the technology/life/careers "TLC" project, the workplace Safety Poster Contest incorporates workplace safety into this training.

This contest has generated great interest in workplace safety and those schools who have participated in the past have found it both rewarding and educational. The workplace safety posters can either be submitted through the art department, or integrated into the TLC curriculum serving as a motivational learning tool.



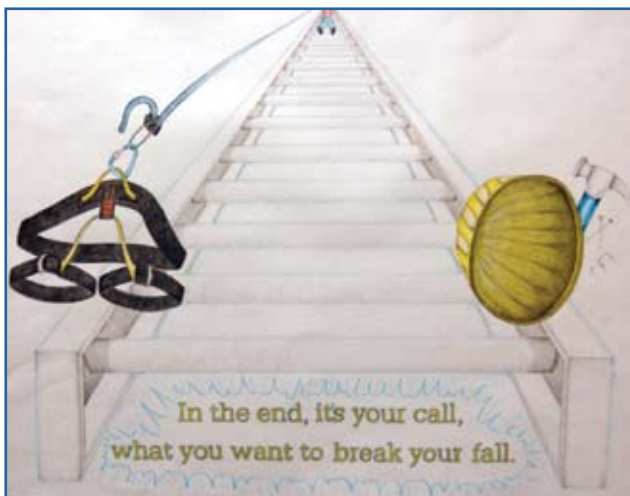
James Storey - North Ogden Jr. High School
2nd Runner-up

This year's top 12 contest winners will have their entries featured in the Labor Commission's Workplace Safety calendar for 2008. The Commission distributes over 35,000 of the safety calendars throughout the state and considers it a very effective tool for generating awareness to the public of the need for safety in the workplace, while educating our youth through this fun poster contest!

Seven other students received Honorable Mention awards, each receiving a \$200 check for them and one for their schools. They included: Mackenzie Bettridge of

Canyon View Middle School; Preston Pace and Shalisa Shelley of Ephraim Middle School; Sam Whitney and Shelby Schanche of Bountiful Jr. High School; Hailey Howden of Timberline Middle School and Adrien Anthian of West Hills Middle School.

Anyone interested in details of the contest for next year should contact Robyn Barkdull at the Labor Commission at (801) 530-6815 or by email at rbarkdull@utah.gov



Brock Madsen - Kaysville Jr. High School
3rd Runner-up (tie)



Meagan Montierth - Central Davis Jr. High School
3rd Runner-up (tie)

Utah Adopts New Federal Minimum Wage Law

By Brent Asay, Wage Claim Unit Manager

It has been ten years since there has been an increase in the federal and Utah minimum wage rates, with both rates during that time at \$5.15 an hour. Because of new federal legislation, the federal minimum wage rate has increased and will be carried out in three increments, starting July 24, 2007, with a 70 cent hike to \$5.85 an hour.

that is owed to tipped employees and the training wage rate of \$4.25 an hour for minor employees during their first 90 days of employment with a single employer. A "tipped employee" is one who customarily and regularly receives tips, who is not a chef, janitor or dishwasher, and who receives at least \$30.00 a month in tips. The new Utah minimum

MINIMUM WAGE RATE INCREASES			
FEDERAL		UTAH	
Rate	Effective Date	Rate	Effective Date
\$5.85 / Hour	July 24, 2007	\$5.85 / Hour	Sept. 8, 2007
\$6.55 / Hour	July 24, 2008	\$6.55 / Hour	July 24, 2008
\$7.25 / Hour	July 24, 2009	\$7.25 / Hour	July 24, 2009

Utah statute requires the Utah Labor Commission to review the state minimum wage law whenever a change occurs in the federal minimum wage law. Because of this mandate and the new federal minimum wage law, the Commission promulgated changes to the Utah minimum wage rules through the state administrative rule-making process. These rule changes, mirroring those of the federal government, become final and effective September 8, 2007. The minimum wage rate changes are summarized in the chart above.

The new federal and Utah minimum wage laws leave unaffected the cash wage obligation of \$2.13 an hour

wage rates will apply to a tipped employee's wages where the employer is permitted to credit the employee's tips toward the effective minimum wage rate after paying the employee the cash wage obligation of \$2.13 an hour. If the cash wage obligation plus tips falls short of the minimum wage level over a pay period, the employer must pay the difference. Employers may choose to pay more than \$4.25 an hour to minor employees during their first 90 days of employment, but after the 90 days, minor employees are entitled to be paid wages at the new minimum wage rates.



Appellate Court Decisions

During the 2nd quarter of 2007, Utah's appellate courts issued four decisions in workers' compensation cases—one from the Utah Supreme Court; three from Court of Appeals. These decisions can be read in full at www.utah/courts/supreme.

***Martinez v. Media-Paymaster Plus, et al.*, 117 P. 3d 1074 (Utah App. 2005).** In 1995, the Utah Legislature amended § 413 of the Workers' Compensation Act--the provision governing claims for permanent total disability compensation. Subsection 413(1)(b) places the burden on the injured worker to prove three things: 1) significant impairment from the work accident or disease; 2) permanently totally disability; and 3) the work accident or disease as the direct cause of the permanent total disability. The following subsection 413(1)(c) sets forth the specific elements the injured worker must prove in order to prove "permanent total disability." The Labor Commission has consistently held that it is also the injured worker's obligation to prove the elements of subsection 413(1)(c).

The Commission's understanding of the injured worker's burden of proof under § 413(1)(b) and (c) was turned upside down when the Utah Court of Appeals issued its decision in ***Martinez v. Media-Paymaster Plus, et al.*, 117 P. 3d 1074 (Utah App. 2005).** There, the Court of Appeals held that it is **not** the injured worker's obligation to prove the existence of the factors set out in subsection 413(1)(c), but rather, the **employer's** burden to prove that those factors did not exist.

At the request of the Labor Commission and Media-Paymaster Plus, the Utah Supreme Court agreed to review this question. The Supreme Court has now reversed the Court of Appeals and held that it is the injured worker's burden to prove all the elements in

both subsection 413(1)(b) and 413(1)(c). In other words, the Supreme Court has returned the law to what the Commission thought it was before the Court of Appeals' decision.



***Mendoza v. Labor Commission*, 2007 UT App 186, issued June 1, 2007.** In this case, one of the Commission's Administrative Law Judges (ALJ) issued a decision that contained several inconsistent and erroneous findings of fact. Both the injured worker and the employer filed requests that the ALJ "reconsider" the decision. The ALJ issued a supplemental decision which corrected some, but not all errors contained in the first decision. The employer requested that the ALJ reconsider the supplemental decision. The ALJ issued an order denying the employer's second request for reconsideration, and the employer then filed a motion for review with the Labor Commission. The Commission accepted the motion for review and corrected the remaining errors in the ALJ's decision. This had the effect of reducing the disability compensation payable to the injured worker.

The injured worker appealed to the Court of Appeals, arguing that the Commission should have rejected the employer's motion for review because it was not filed within 30 days of the ALJ's original order. The Court of Appeals reviewed the applicable provisions of the Utah Administrative Procedures Act and the Labor Commission's procedural rules and concluded that the 30 day period for filing motions for review with the Commission begins on the date of the ALJ's last order. Consequently, the Commission had properly accepted and ruled on the employer's motion for review.

***Merrill v. Labor Commission*, 2007 UT App 214, issued June 21, 2007.** Merrill was seriously injured in a work accident during 2001 and was awarded
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Appellate Court Decisions

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permanent total disability compensation of \$1700 per month. However, when Merrill turned 65 years of age and began receiving social security retirement benefits, he became subject to a provision in § 413(5) of the Utah Workers' Compensation Act that reduced his disability compensation by one-half of the amount of his social security retirement benefits.

Merrill challenged this reduction in proceedings before the Commission. The Commission upheld the reduction. Merrill then sought review of the Commission's decision by the Utah Court of Appeals. Specifically, Merrill argued that the Workers' Compensation Act's reduction of his disability compensation because he received social security retirement benefits discriminated against him because of age and, therefore, violated the "equal protection" clauses of the United States and Utah Constitutions.

The Utah Court of Appeals noted that under established precedent, "there is nothing inherently unreasonable in distinguishing between individuals based on age." The Court concluded that the social security offset provision in § 413(5) was rationally related to the legitimate objectives of 1) avoiding duplication of benefits and 2) reducing the cost of workers' compensation insurance. On that basis, the Court concluded that § 413(5) did not violate equal protection guarantees.

***Benson v. Labor Commission*, 2007 UT App 145, unpublished memorandum decision issued April 26, 2007.** The Commission denied Benson's claim for permanent total disability benefits. Benson appealed to the Court of Appeals, arguing that the Commission had erred in its review of Benson's medical records. The Court of Appeals rejected this argument, finding instead that the Commission had acted well within its discretion. The Court of Appeals likewise rejected Benson's other challenges and affirmed the Commission's denial of benefits.

The Rules Corner

Pursuant to authority granted by the Utah Legislature, the Commission has recently adopted or is considering the following substantive rules. If you have questions or concerns about any of these rules, please call the Labor Commission at 801-530-6953.



RULE NUMBER	DESCRIPTION	STATUS
Rule 610-1-3 Adjudication	Attorney's Fees in Workers' Compensation Cases. This amendment increases the cap on attorney's fees for applicants' attorneys by 12.9% to reflect the increase in benefit amounts over the last three years.	Approved by Advisory Council; published June 15, 2007; became effective July 24, 2007.
R612-1-3 Antidiscrimination & Labor	Utah minimum wage. This amendment increases the Utah minimum wage to reflect the recent increase in the federal minimum wage.	Public meeting to be held August 1, 2007.
R616-2-7 Industrial Accidents	Commission approval of medical protocols. This rule establishes standards for Commission approval of contracts between health care providers and insurance carriers or self-insured employers regarding protocols for treatment of injured workers.	Published June 1, 2007; became final July 10, 2007.

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Joyce Sewell....

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This award, established in 1989 by the Utah Chapter of ASPA, honors appointed officials who have served the public with honor and integrity. For the last 18 years, Ms. Sewell has been closely involved in every administrative rule and statutory change in the workers' compensation system. Under her watch, Utah's workers' compensation system has developed a national reputation for efficiency and progressive policies. Her peers in the international workers' compensation community have recognized her abilities by

electing her President of the International Association of Industrial Accident Boards & Commissions (IAIABC). The Commission congratulates Joyce for this well-deserved honor.

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